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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/830,228	04/22/2004	Andrew Tien		7763
29745	7590	12/16/2005	EXAMINER	
JOE NIEH			BRAHAN, THOMAS J	
18760 E. AMAR ROAD #204			ART UNIT	
WALNUT, CA 91789			PAPER NUMBER	

3654

DATE MAILED: 12/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/830,228	TIEN, ANDREW	
	Examiner	Art Unit	
	Thomas J. Brahan	3654	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 3654

1. The drawings are objected to under 37 C.F.R. § 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the telescoping column of claims 5, 15 and 24, and the telescopic boom of claims 6, 16 and 25, must be shown, or the features must be canceled from the claims. No new matter may be entered.

2. If corrected drawing sheets are submitted to overcome the above objection, they must be in compliance with 37 CFR 1.121(d). An amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended". If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. The following is a quotation of the second paragraph of 35 U.S.C. § 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which applicant regards as his invention.

4. Claims 1-27 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In the last line of claims 1, 10, and 19, the term "the rooftop" lacks antecedent basis within the claims.

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject

Art Unit: 3654

matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 1 is rejected under 35 U.S.C. § 102(b) as being anticipated by Hanks et al. Hanks et al shows a portable crane comprising:

a support structure comprising a first base member (64) pivotally connected at a location between its two ends to an end of a first connecting member (10) that is pivotally connected to a second connecting member (12) at its other end and a second base member (64) pivotally connected at a location between its two ends to the other end of said second connecting member and an adjustable locking member (16) connected to said first connecting member between its two ends at one end and to the second connecting member between its two ends at the other end wherein said adjustable locking member can be adjusted to lock the position of the two base members at desired positions; and

a lifting means (32) affixed to said support structure to lift a load;

wherein the portable crane can lift a load from the ground up to the rooftop.

8. Claims 1 and 4-8 are rejected under 35 U.S.C. § 102(b) as being anticipated by Avila. Avila shows a portable crane comprising:

a support structure comprising a first base member (1) pivotally connected at a location between its two ends to an end of a first connecting member (4) that is pivotally connected to a second connecting member (6) at its other end and a second base member (2) pivotally connected at a location between its two ends to the other end of said second connecting member and an adjustable locking member (9) connected to said first connecting member between its two ends at one end and to the second connecting member between its two ends at the other end wherein said adjustable locking member can be adjusted to lock the position of the two base members at desired positions (locked and unlocked); and

a lifting means affixed to said support structure to lift a load;

wherein the portable crane can lift a load from the ground up to the rooftop.

The portable crane comprises a telescopic support column (B, 30 and 31), as recited in claims 4-6, a telescopic boom (33 and 36) as recited in claims 4 and 7, and a winch (see column 4, line 42), as recited in claims 4 and 8.

9. Claims 1, 3, 10 and 12 are rejected under 35 U.S.C. § 102(b) as being anticipated by Zingerman. Zingerman shows a portable crane comprising:

a support structure comprising a first base member (14) pivotally connected at a location between its two ends to an end of a first connecting member (35) that is pivotally connected to a second connecting member (35; indirectly) at its other end and a second base member (at 13) pivotally connected at a location between its two ends to the other end of said second connecting member and an adjustable locking member (29) connected to the first connecting member between its two ends at one end and to

Art Unit: 3654

the second connecting member between its two ends at the other end wherein said adjustable locking member can be adjusted to lock the position of the two base members at desired positions; and

a lifting means (9) affixed to said support structure to lift a load.

The crane is considered as lifting the load to the rooftop, although not over and above it, as the lifting to the rooftop is only functionally recited within the claims. The adjustable locking member (29) is telescopic, as recited in claim 3 and 12. Zingerman has third and fourth bases (14 and at 13), third and fourth connecting members (35), and a stabilizing means (a triangular truss 30 or 31) as recited in claim 10.

10. Claims 1, 3, 10 and 12 are rejected under 35 U.S.C. § 102(b) as being anticipated by Willaughby. Willaughby shows a portable crane comprising a support structure comprising a first base member (32) pivotally connected at a location between its two ends to an end of a first connecting member (12) that is pivotally connected (indirectly through the shaft member 14) to a second connecting member (12) at its other end and a second base member (32) pivotally connected at a location between its two ends to the other end of said second connecting member and an adjustable locking member (36) connected to the first connecting member between its two ends at one end and to the second connecting member between its two ends at the other end wherein said adjustable locking member can be adjusted to lock the position of the two base members at desired positions, and a lifting means (48) affixed to the support structure to lift a load. The portable crane could lift a load from the ground up to a rooftop. The locking member (36) is adjustable, as recited in claims 3 and 12. A stabilizer (16) extends to another pair of connecting members (12) each with a base member (32), as recited in claim 10.

11. Claims 1-3, 10-12, 19 and 21 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Anson et al in view of Zingerman. Figures 24 and 25 of Anson et al show a portable crane comprising a support structure comprising a first base member (plates 48) pivotally connected at a location between its two ends to an end of a first connecting member (side element 19) that is pivotally connected to a second connecting member (side element 18) at its other end and a second base member (plates 47 or cross beam 8) pivotally connected at a location between its two ends to the other end of said second connecting member and a member (rung element 20) connected to said first connecting member between its two ends at one end and to the second connecting member between its two ends at the other, and a lifting means (140) affixed to said support structure to lift a load from the ground up to the rooftop. Anson et al varies from the claims by not having the rung elements (20) as adjustable. Zingerman shows a similar hoist and teaches connecting the side elements (35) with an adjustable strut (29). It would have been obvious to one of ordinary skill in the art at the time the invention was made by applicant to modify the roof hoist of Anson et al by replacing the fixed rungs (20) adjustable struts, to better position the side elements, as taught by Zingerman. The plates (47 and 48) when taken along with their connecting bolts

Art Unit: 3654

(27 and 28) form inverted U-shaped channels, as recited in claims 2 and 11; alternatively, see the next paragraph. Anson et al has a third connecting member (the other side element 19) which is connected to a third base member (48) and a fourth connecting member (the other side element 18) connected to the second base member (47), as recited in claim 10. When considering claim 19, base cross beam (8) is considered as the second base member, as to have a third connecting member (the other side element 19) connected to a third base member (48) and the second and fourth connecting members (the two side elements 18) connected to the second base member (8). The locking member of Zingerman is a telescoping member, as recited in claims 3, 12 and 21.

12. Claims 2, 11 and 20 rejected under 35 U.S.C. § 103(a) as being unpatentable over Anson et al in view of Zingerman, as applied above to claims 1, 10 and 19, and further in view of Moldow. Anson et al, as modified, shows the basic claimed portable roof crane, but varies from Moldow shows a similar roof crane mounted on rails (12 and 14) through clamps. It would have been obvious to one of ordinary skill in the art at the time the invention was made by applicant to modify the roof crane of Anson et al by mounting it on rails on the roof using clamps (inverted U-shaped elements) to guide the hoist and to lock it in place, as taught by Moldow.


13. Claims 4-6, 8, 9, 13-15, 17, 18, 22-24, 26 and 27 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Anson et al in view of Zingerman, as applied above to claims 1, 10, and 19, and further in view of Steinhagen. Anson et al, as modified, shows the basic claimed portable roof crane. It varies from the claims by not having boom mounted on a column as to pivot. Steinhagen shows a similar portable roof hoist with the boom pivoting on column (47). It would have been obvious to one of ordinary skill in the art at the time the invention was made by applicant to modify the roof hoist of Anson et al by mounting the boom on a column, as to allow pivoting of the boom, to increase its working range, as taught by Steinhagen. Having the winch as electric, as recited in claims 9, 18 and 27 would have been obvious to one of ordinary skill in the art at the time the invention was made by applicant as being conventional winching means.

14. Claims 7, 16 and 25 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Anson et al in view of Zingerman and Steinhagen, as applied above to claims 4, 13, and 22, and further in view of Moldow. Anson et al, as modified, shows the basic claimed portable roof crane. It varies from the claims by not having boom as telescopic. Moldow shows a similar portable roof hoist with a telescopic boom (48). It would have been obvious to one of ordinary skill in the art at the time the invention was made by applicant to modify the roof hoist of Anson et al by having the boom telescopic, to increase its working range, as taught by Moldow.

Art Unit: 3654

15. Smith, Book, Sullivan, Cox, Sears and Hatch et al are cited as showing related portable roof hoists.

16. An inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas J. Brahan whose telephone number is (571) 272-6921. The examiner's supervisor, Ms. Katherine Matecki, can be reached at (571) 272-6951. The new fax number for all patent applications is (571) 273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Questions regarding access to the Private PAIR system, should be directed to the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

 12/4/08
Thomas J. Brahan
Primary Examiner
Art Unit 36544